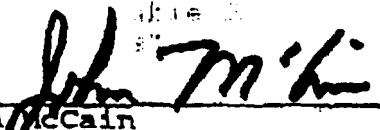


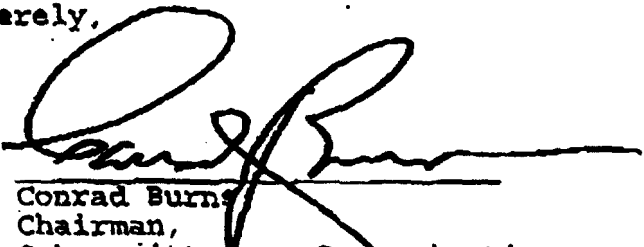
The Honorable Reed E. Hundt
May 1, 1997
Page 3

effective date is tolled for a period sufficient to apprise the Congress of the nature of any rate increases, their likely effects, and why they cannot be avoided under the statute as written, and to allow for further refinement in either the rules, or in the statute, as may seem advisable to mitigate these results.

Let us make one other point very clear. There are other provisions of the universal service funding rules the Commission is reportedly considering that, in the judgment of many, are so incompatible with the terms of the 1996 Act as to pose a clear danger of being stayed on appeal. While it is not, and indeed should not be, our task to offer guidance to you on each and every one of your proposals that appears problematic, we would caution you that a stay imposed on all or a part of the rules you adopt will cause this Committee to revisit and correct the reasons for these repeated implementational failures.

Sincerely,


John McCain
Chairman


Conrad Burns
Chairman,
Subcommittee on Communications

JM/pb

JOE LYTAUTIN
Staff Director, Commerce
COMMERCE COMMITTEE

Subcommittee on Telecommunications,
Trade, and Consumer Protection
RESOURCES COMMITTEE
VCT Committee

WASHINGTON OFFICE
Telephone: 202-225-4031
2101 Rayburn House Office Building
Washington, DC 20515

Congress of the United States
House of Representatives
Washington, DC 20515-1803

April 30, 1997

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Dear Chairman Hundt:

I am writing to express my hope that the FCC faithfully adheres to the principles of the Telecommunications Act of 1996 as it prepares to issue important orders implementing the universal service provisions in the Act and reforming the FCC's interstate access charge rules. In particular, as you yourself said on April 4, 1997, "I don't think that Congress intended to have us raise residential basic dialtone" You were "reading Congress right on this" and I am deeply concerned that the FCC is pursuing a course that will risk underfunding universal service support mechanisms and result in increased rates for basic telephone service.

The primary purpose of universal service has always been, and Congress intends that it continue to be, ensuring that residential customers in high-cost, rural areas are able to have basic telephone service at reasonable rates. This is why the 1996 Act mandates that the FCC create and fully implement a new universal service fund. Although ensuring that schools, health care providers, and libraries have discounted access to advanced telecommunications services is a part of this mandate, it is clearly not the primary purpose of the Universal Service Fund.

It appears, however, that the FCC is poised to create a massive federal government spending program and will fail to accomplish its primary obligation. Congress did not intend for the Universal Service Fund to be converted into a funding mechanism for the information superhighway. Nor did Congress intend for the FCC to collect funds in excess of anticipated demand and allow them to accumulate annually, thereby generating a large surplus to pay for future potential spending by schools, healthcare providers, and libraries.

With regard to the "inside wiring" of schools, there are numerous organizations including cable companies, Internet service providers, and telephone companies who provide this service on a philanthropic basis. If telecommunications providers are required to pay into a fund which simply duplicates the work already being done voluntarily, these companies may stop their efforts altogether. It is ironic that in the midst of President Clinton's call for increased volunteerism, the FCC is preparing to implement a program that actually subverts the voluntary efforts of these companies and thousands of Americans who volunteered their time.

It appears that the FCC has misused its limited resources, and will fail to implement high-cost support for consumers of basic telephone service as mandated by the 1996 Act. As a result of this failure to create a federal universal service fund providing "specific, predictable and sufficient" support, current implicit support mechanisms are exposed to loss if competition develops rapidly over the next year as contemplated in the 1996 Act. What's more, it appears that the FCC plans to include in its Access Reform Order new rules ensuring that competitors

* Statement of Chairman Hundt as reported by Roger Fillion, *AT&T Baby Bells Offer Plan to Cut Phone Rates*, Reuters Newswire, April 4, 1997.

DISTRICT OFFICES:
Telephone: 804-371-1787
ST. BRANFORD PARK GOVERNMENT COMPLEX
5501 WEST JONES FERRY DRIVE
CHALMERS, LA 70602
Telephone: 804-976-3893
FEDERAL BUILDING, SUITE 107
HOUMA, LA 70360
Telephone: 510-367-0231
270 EAST MAIN STREET
NEW ORLEANS, LA 70660
Telephone: 504-421-6666
ASCENSION PARK COURTHOUSE EAST
820 SOUTH MAAS BLVD.
ROOM 212-A
CHENAY, LA 70727

The Honorable Reed Hundt
April 30, 1997
Page 2

using unbundled elements do not pay interstate access charges, which further imperils implicit universal service support.

In the *Local Competition Order* issued last summer, the FCC emphasized that the unbundling provisions in the Act are "integrally related to both universal service reform . . . and reform of the interstate access charge system."² Accordingly, the FCC attempted to implement a temporary mechanism³ to ensure that takers of unbundled elements continue to pay access charges, writing that a contrary result "may have detrimental consequences"⁴ and would be "undesirable as a matter of both economics and policy."⁵ By adopting an Access Reform Order that permits competitors to use unbundled elements without paying access charges, the FCC will be violating these very same principles it espoused less than one year ago.

Congress did mandate that the FCC implement the Universal Service Fund in a "single proceeding" and "complete such proceeding within 15 months after the date of enactment." This requirement does not justify partial implementation of the Universal Service Fund coupled with full implementation of access charge restructuring. Yet once again, to accomplish the FCC's own social agenda, the FCC is planning to implement access reform before ensuring that universal service support is "specific, predictable and sufficient." Such a result plainly violates Congressional intent. I am not suggesting that access reform is not ultimately necessary. Rather, I am suggesting that the FCC implement access reform at such time as universal service support is guaranteed.

It is also apparent from the delay in fully implementing the Universal Service Fund, that the FCC has struggled to raise \$3 billion in new spending for schools, libraries, health care providers, and low-income support without causing local or long distance rates to increase. It is my understanding that the FCC plans to increase the Subscriber Line Charge ("SLC") for second and additional residential lines as well as multiline business lines. Congress did not intend for the Commission to increase local rates for any customers whether to fund ambitious school programs or to replace implicit funding used to support universal service. To raise local rates in connection with implementation of the 1996 Act is in direct contravention of Congressional intent. Moreover, I note that raising rates for second lines sold by incumbent LECs merely encourages customers to purchase those lines from competitors or to buy them from the incumbent under false pretenses. This result would seem to nullify the FCC's intent in raising these SLCs.

I further understand that, to accomplish its new spending goals, the FCC is considering requiring private network operators that lease excess capacity (such as public utilities, railroads, satellite operators, and oil companies) to contribute to the Universal Service Fund. Such companies are not common carriers. Therefore, Congress did not include them among the parties that are required to contribute to universal service pursuant to Section 254(d). Moreover, I cannot understand how the "public interest" would be served by having these parties make

² *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, First Report & Order, 11 FCC Red 15499, 15862 ¶ 716.

³ Earlier this year, the FCC wrote that this temporary mechanism was among the provisions stayed by order of the United States Court of Appeals for the Eighth Circuit. *Access Charge Reform*, CC Docket No. 96-262, Notice of Proposed Rulemaking, FCC 96-186 ¶34 n.94 (Dec. 24, 1996).

⁴ *Local Competition Order*, 11 FCC Red at 15863 ¶ 717.

⁵ *Id.* ¶ 719.

The Honorable Reed Hundt
April 30, 1997
Page 3

universal service contributions -- their networks are not a part of the public switched telephone network and they are not eligible to receive support from the Universal Service Fund.

I also understand that the FCC intends to require paging companies to contribute to the Universal Service Fund on the same basis as other telecommunications service providers. Such a result would conflict, however, with the express mandate in Section 254(d) that telecommunications carriers shall contribute to universal service support on an equitable and nondiscriminatory basis. As the FCC recognized last summer, paging companies do not use the public switched telephone network in the same way as "LECs and other voice carriers."⁶ Accordingly, the FCC recommended that paging companies' rates for transport and termination be calculated separately from those of LECs. I urge the FCC to follow this logic again when considering the appropriate measure of any universal service support obligations imposed on paging companies. Moreover, requiring lower levels of universal service support from paging companies is the only equitable and nondiscriminatory solution because such companies are ineligible to receive funds from the Universal Service Fund.

When Congress enacted the Telecommunications Act of 1996, it intended to deregulate the telecommunications industry and create competition, which would result in lower rates and advanced services for all Americans. As we near the conclusion of the implementation timetable contemplated by the Act, I fear that the FCC appears to have lost sight of these goals and instead created for itself a new regulatory mission. As a result, it appears that the nation's telecommunications customers may experience increased local or long distance rates. This is simply unacceptable, and I call on the FCC to reverse course to prevent any such rate increases. In particular, I believe the FCC is compelled to refrain from adopting new rules increasing local rates (SLC increases) and permitting competitors using unbundled elements to avoid paying interstate access charges until implicit universal service support is made explicit and guaranteed in the Universal Service Fund provided for by Section 254 of the Act.

Sincerely,



BILLY TAUZIN

Chairman

Subcommittee on Telecommunications,
Trade, and Consumer Protection

⁶ Local Competition Order, 11 FCC Rod at 16043 ¶1082.



UNITED STATES SENATE
OFFICE OF THE MAJORITY LEADER
WASHINGTON, D. C.

TRENT LOTT
MISSISSIPPI

April 25, 1997

Dear Chairman Hundt:

I have two concerns about the implementation of the FCC's proposed universal service rulemaking and their impact on the providers of paging services. First, the proposed rules would require pager providers to contribute money into the fund and second, the new rules would limit their ability to recoup the cost of this financial burden.

Clearly, a fairness and equity issue exists. Paging providers are ineligible to receive universal service funding despite their annual payment of approximately \$300 million to the fund. And, the prohibition of an end-user surcharge would produce a hidden tax on consumers which is contrary to the intent of Telecommunications Act of 1996.

I recognize there are many challenging issues to resolve as you implement universal service within the context of the 1996 Act and I hope you will give these issues serious consideration. With best wishes, I am

Sincerely yours,



Trent Lott

TRENT LOTT
MISSISSIPPI

The Honorable Reed Hundt
Chairman
Federal Communications Commission
Washington, D.C. 20554

CERTIFICATE OF SERVICE

I, Regina Wingfield, a secretary with the law firm of Joyce & Jacobs, Attys. at Law, L.L.P., hereby certify that the foregoing Comments of Celpage, Inc. in Support of Joint Petition for Stay were sent via first class mail, postage prepaid, to the following:

Chairman Reed Hundt*
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Nancy Woolf, Esq.
140 New Montgomery Street
Room 1523
San Francisco, CA 94105

Commissioner Rachelle B. Chong*
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, DC 20554

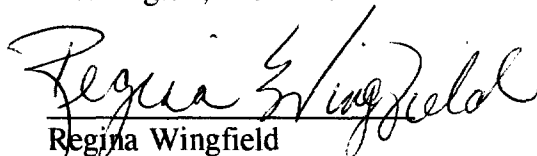
Robert M. Lynch, Esq.
Southwestern Bell Telephone Co.
One Bell Center, Suite 3520
St. Louis, MO 63101

Commissioner Susan Ness*
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, DC 20554

Commissioner James H. Quello*
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, DC 20554

William E. Kennard, General Counsel * (2 copies)
Daniel M. Armstrong, Associate General Counsel
Federal Communications Commission
1919 M. Street, N.W., Room 614
Washington, DC 20554

Ms. Sheryl Todd * (2 copies)
Universal Service Branch
Accounting and Audits Division
Common Carrier Bureau
2100 M Street, N.W., 8th Floor
Washington, DC 20554


Regina Wingfield

* denotes hand delivery